Remarks

Claims 10-24 are pending, of which claims 11-13 were withdrawn. Claim 16 is withdrawn pursuant to the present election. Claim 14 is amended to correct a typographical error.

The Examiner restricted Applicant to one of the compounds listed in claims 15-17. Applicants hereby elect the species of RAP conjugated to alpha-glucosidase, ***with traverse***.

The Examiner's restriction requirement is ***improper, contrary to the rules and contrary to accepted practice***. 37 C.F.R. 1.141 provides that

> . . . more than one species of an invention . . . may be specifically claimed in different claims in one national application, provided the application also includes an allowable claim generic to all the claimed species and all the claims to species in excess of one are written in dependent form [cite omitted] or otherwise include all the limitations of the generic claim.

In this case, the application does include a claim generic to all of the claimed species, claim 14, and all of the species claims are ultimately dependent from claim 14. Thus it is entirely proper for all of the species claims to be included in the same application and it is ***improper for the Examiner to require restriction***. Rather, the proper procedure would be to request an election of species, and to examine generic claim 14 (as a linking claim, see MPEP 809.02) with the elected species claim, see MPEP 809.02(c).

Also see, for example, MPEP 803.02, which states with respect to Markush-type claims (such as claim 15) that:

> . . . it is **improper for the Office to refuse to examine** that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. [cites omitted] Broadly, unity of invention exists where compounds included within a Markush group (1) share a common utility, and (2) share a substantial structural feature disclosed as being essential to that utility. [emphasis added]

The present invention is based on the discovery that RAP is an effective carrier for delivering active agents across the blood brain barrier, particularly to lysosomes within a cell. The claimed compounds are fusion proteins comprising Receptor-Associated Protein (RAP) conjugated to an enzyme that is deficient in a lysosomal storage disease (see claim 14). Their common utility is the ability to cross the blood brain barrier and their common structural feature is the presence of the RAP portion of the fusion, which provides that common utility. It is therefore ***not proper*** for the Examiner to require restriction.

As noted earlier by Applicants, when the product claims are deemed allowable, corresponding claims to methods of using the claimed products should be rejoined.

Conclusion

Applicants believe that all claims are in condition for allowance and request an early indication of such a favorable disposition of the case. The Examiner is invited to contact the undersigned with any questions, comments or suggestions relating to the referenced patent application.

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Respectfully submitted,

By Li-Hsien Rin-Laures

Li-Hsien Rin-Laures, M.D.
Registration No.: 33,547
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorney for Applicant